

(f) *Determination of insufficient number of applicants qualifying for preference.* To make a determination that there are an insufficient number of applicants who qualify for the preferences, including secondary preferences, provided by this section, the owner must:

(1) Conduct marketing in accordance with §880.601(a) to attract applicants qualifying for the preferences and reservation of units set forth in this section; and

(2) Make a good faith effort to lease to applicants who qualify for the preferences provided in this section, including taking all feasible actions to fill vacancies by renting to such families.

(g) *Prohibition of evictions.* An owner may not evict a tenant without good cause, or require that a tenant vacate a unit, in whole or in part because of any reservation or preference provided in this section, or because of any action taken by the Secretary pursuant to subtitle D (sections 651 through 661) of title VI of the Housing and Community Development Act of 1992 (42 U.S.C. 13611 through 13620).

[59 FR 65850, Dec. 21, 1994, as amended at 61 FR 9046, Mar. 6, 1996; 65 FR 16722, Mar. 29, 2000]

EFFECTIVE DATE NOTE: At 65 FR 16722, Mar. 29, 2000, §880.612a was amended by removing paragraph (g) and redesignating paragraph (h) as (g), effective Apr. 28, 2000. For the convenience of the user, the superseded text is set forth as follows:

§ 880.612a Preference for occupancy by elderly families.

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(g) *Federal preferences.* An owner that gives preferences to elderly families and reserves units for non-elderly disabled families in accordance with this section also shall select applicants among each respective group in accordance with the Federal preferences contained in 24 CFR part 5. Projects under National Housing Act programs and receiving section 8 assistance may be subject to preferences in addition to those contained in 24 CFR part 5 which also must be applied in selecting applicants among each respective group.

PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR SUBSTANTIAL REHABILITATION

Subpart A—Summary and Applicability

Sec.

881.101 General.

881.104 Applicability of part 881.

881.105 Applicability to proposals and projects under 24 CFR part 811.

Subpart B—Definitions and Other Requirements

881.201 Definitions.

881.205 Limitation on distributions.

881.207 Property standards.

881.208 Financing.

881.211 Audit.

Subparts C–D [Reserved]

Subpart E—Housing Assistance Payments Contract

881.501 The contract.

881.502 Term of contract.

881.503 Cross-reference.

Subpart F—Management

881.601 Cross-reference.

AUTHORITY: 42 U.S.C. 1437a, 1437c, 1437f, 3535(d), 12701, and 13611–13619.

SOURCE: 45 FR 7085, Jan. 31, 1980, unless otherwise noted.

Subpart A—Summary and Applicability

§ 881.101 General.

(a) The purpose of the Section 8 program is to provide low-income families with decent, safe and sanitary rental housing through the use of a system of housing assistance payments. This part contains the policies and procedures applicable to the Section 8 substantial rehabilitation program. The assistance may be provided to public housing agency owners or to private owners either directly from HUD or through public housing agencies.

(b) This part does not apply to projects developed under other Section 8 program regulations, including 24

Office of the Assistant Secretary, HUD

§ 881.201

CFR parts 880, 882, 883, 884, and 885, except to the extent specifically stated in those parts.

[61 FR 13591, Mar. 27, 1996]

§ 881.104 Applicability of part 881.

(a) Part 881, in effect as of February 20, 1980, applies to all proposals for which a notification of selection was not issued before the February 20, 1980 effective date of part 881. (See 24 CFR part 881, revised as of April 1, 1980). Where a notification of selection was issued for a proposal before the February 20, 1980, effective date, part 881 in effect as of February 20, 1980 applies if the owner notified HUD within 60 calendar days that the owner wished the provisions of part 881, effective February 20, 1980, to apply and promptly brought the proposal into conformance.

(b) Subparts E (Housing Assistance Payments Contract) and F (Management) of this part apply to all projects for which an Agreement was not executed before the February 20, 1980, effective date of part 881. Where an Agreement was so executed:

(1) The owner and HUD may agree to make the revised subpart E of this part applicable and to execute appropriate amendments to the Agreement and/or Contract.

(2) The owner and HUD may agree to make the revised subpart F of this part applicable (with or without the limitation on distributions) and to execute appropriate amendments to the Agreement and/or Contract.

(c) Section 881.607 (Termination of tenancy and modification of leases) applies to all families.

(d) Notwithstanding the provisions of paragraph (b) of this section, the provisions of 24 CFR part 5 apply to all projects, regardless of when an Agreement was executed.

[61 FR 13591, Mar. 27, 1996, as amended at 65 FR 16722, Mar. 29, 2000]

EFFECTIVE DATE NOTE: At 65 FR 16722, Mar. 29, 2000, § 881.104 was amended by revising the section heading and paragraph (c), and removing “(concerning preferences for selection of applicants)” from paragraph (d), effective Apr. 28, 2000. For the convenience of the user, the superseded text is set forth as follows:

§ 881.104 Applicability of part 881 in effect as of February 20, 1980.

* * * * *

(c) Section 880.607 of this chapter, Termination of Tenancy and Modification of Leases, applies to new families who begin occupancy or execute a lease on or after 30 days after the February 20, 1980, effective date of part 881. This section also applies to families not covered by the preceding sentence, including existing families under lease, with respect to all leases in which a renewal becomes effective on or after the 60th day following the February 20, 1980 effective date of part 881. A lease is considered to be renewed where both the landlord and the family fail to terminate a tenancy under a lease permitting either party to terminate.

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§ 881.105 Applicability to proposals and projects under 24 CFR part 811.

Where proposals and projects are financed with tax-exempt obligations under 24 CFR part 811, the provisions of part 811 will be complied with in addition to all requirements of this part. In the event of any conflict between this part and part 811, part 811 will control.

Subpart B—Definitions and Other Requirements

§ 881.201 Definitions.

Agreement. (Agreement to Enter into Housing Assistance Payments Contract) The Agreement between the owner and the contract administrator which provides that, upon satisfactory completion of the project in accordance with the HUD-approved final proposal, the administrator will enter into the Contract with the owner.

Annual Contributions Contract (ACC). As defined in part 5 of this title.

Annual income. As defined in part 5 of this title.

Assisted unit. A dwelling unit eligible for assistance under a Contract.

Contract. (Housing Assistance Payments Contract) The Contract entered into by the owner and the contract administrator upon satisfactory completion of the project, which sets forth the rights and duties of the parties with respect to the project and the payments under the Contract.